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DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-996, A-428-843, A-588-872, A-580-872, A-401-809, A-583-851]

Non-Oriented Electrical Steel from the People's Republic of China, Germany, Japan, the Republic of Korea, Sweden, and Taiwan: Initiation of Antidumping Duty Investigations

AGENCY: Enforcement and Compliance, formerly Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: [Insert date of publication in the *Federal Register*].

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SUPPLEMENTARY INFORMATION:

The Petitions

On September 30, 2013, the Department of Commerce (the Department) received antidumping duty (AD) petitions concerning imports of non-oriented electrical steel (NOES) from the PRC, Germany, Japan, Korea, Sweden, and Taiwan filed in proper form on behalf of AK Steel Corporation (Petitioner). The AD petitions were accompanied by three countervailing duty (CVD) petitions.¹ Petitioner is the sole domestic producer of NOES.

¹ See Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of Non-Oriented Electrical Steel From the People's Republic of China, Germany, Japan, the Republic of Korea, Sweden, and Taiwan, dated September 30, 2013 (Petitions).

On October 22, 2013, and October 29, 2013, the Department requested additional information and clarification of certain areas of the Petitions.² Petitioner filed responses to these requests on October 25, 2013, October 28, 2013 and October 30, 2013.

In accordance with section 732(b) of the Tariff Act of 1930, as amended (the Act), Petitioner alleges that imports of NOES from the PRC, Germany, Japan, Korea, Sweden, and Taiwan are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act and that such imports are materially injuring, or threatening material injury to, an industry in the United States. Also, consistent with section 732(b)(1) of the Act, the Petitions are accompanied by information reasonably available to Petitioner supporting its allegations.

The Department finds that Petitioner filed these Petitions on behalf of the domestic industry because Petitioner is an interested party as defined in section 771(9)(C) of the Act. The Department also finds that Petitioner has demonstrated sufficient industry support with respect to the initiation of the AD investigations that Petitioner is requesting. *See* the “Determination of Industry Support for the Petitions” section below.

Periods of Investigations

Pursuant to 19 CFR 351.204(b)(1), because the Petitions were filed on September 30, 2013, the period of investigation (POI) for the PRC investigation is January 1, 2013, through

² *See* letter from the Department to Petitioner entitled “Re: Petitions for the Imposition of Antidumping Duties on Imports of Non-Oriented Electrical Steel from the People’s Republic of China, the Federal Republic of Germany, Japan, the Republic of Korea, Sweden, and Taiwan and Countervailing Duties on Imports of Non-Oriented Electrical Steel from the People’s Republic of China, the Republic of Korea, and Taiwan: Supplemental Questions” dated October 22, 2013, and letters from the Department to Petitioner entitled “Petition for the Imposition of Antidumping Duties on Imports of Non-Oriented Electrical Steel from {country}: Supplemental Questions” on each of the country-specific records dated October 22, 2013; *see also* Memorandum to the File entitled, Antidumping Duty Investigations of Non-Oriented Electrical Steel from the Federal Republic of Germany and from the State of Japan,” dated October 29, 2013.

June 30, 2013. The POI for the Germany, Japan, Korea, Sweden, and Taiwan investigations is July 1, 2012, through June 30, 2013.

Scope of the Investigations

The product covered by these investigations is NOES from the PRC, Germany, Japan, Korea, Sweden, and Taiwan. For a full description of the scope of the investigations, *see* the “Scope of the Investigations,” in Appendix I of this notice.

Comments on Scope of Investigations

During our review of the Petitions, the Department issued questions to, and received responses from, Petitioner pertaining to the proposed scope to ensure that the scope language in the Petitions would be an accurate reflection of the products for which the domestic industry is seeking relief. As discussed in the preamble to the regulations,³ we are setting aside a period for interested parties to raise issues regarding product coverage. The Department encourages all interested parties to submit such comments by 5:00 PM Eastern Time on November 26, 2013. All comments must be filed on the records of the PRC, Germany, Japan, Korea, Sweden, and Taiwan AD investigations as well as the concurrent PRC, Korea, and Taiwan CVD investigations.

Filing Requirements

All submissions to the Department must be filed electronically using IA ACCESS.⁴ An electronically filed document must be received successfully in its entirety by the time and date noted above. Documents excepted from the electronic submission requirements must be filed

³ See *Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997).

⁴ See *Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures*, 76 FR 39263 (July 6, 2011) for details of the Department’s electronic filing requirements, which went into effect on August 5, 2011. Information on help using IA ACCESS can be found at <https://iaaccess.trade.gov/help.aspx> and a handbook can be found at <https://iaaccess.trade.gov/help/Handbook%20on%20Electronic%20Filing%20Procedures.pdf>.

manually (*i.e.*, in paper form) with Enforcement and Compliance's APO/Dockets Unit, Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, and stamped with the date and time of receipt by the deadline noted above.

Comments on Product Characteristics for Antidumping Duty Questionnaires

The Department requests comments from interested parties regarding the appropriate physical characteristics of NOES to be reported in response to the Department's antidumping duty questionnaires. This information will be used to identify the key physical characteristics of the subject merchandise in order to report the relevant factors and costs of production accurately as well as to develop appropriate product-comparison criteria.

Interested parties may provide any information or comments that they feel are relevant to the development of an accurate list of physical characteristics. Specifically, they may provide comments as to which characteristics are appropriate to use as: 1) general product characteristics and 2) product-comparison criteria. We note that it is not always appropriate to use all product characteristics as product-comparison criteria. We base product-comparison criteria on meaningful commercial differences among products. In other words, while there may be some physical product characteristics utilized by manufacturers to describe NOES, it may be that only a select few product characteristics take into account commercially meaningful physical characteristics. In addition, interested parties may comment on the order in which the physical characteristics should be used in matching products. Generally, the Department attempts to list the most important physical characteristics first and the least important characteristics last.

In order to consider the suggestions of interested parties in developing and issuing the AD questionnaires, we must receive comments on product characteristics by November 20, 2013. Rebuttal comments must be received by November 27, 2013. All comments and

submissions to the Department must be filed electronically using IA ACCESS, as referenced above.

Tolling of Deadlines

As explained in the memorandum from the Assistant Secretary for Enforcement and Compliance, the Department has exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from October 1, through October 16, 2013.⁵ Therefore, all deadlines in these investigations have been tolled by 16 days. The revised deadline for the initiation of these investigations is November 6, 2013.

Determination of Industry Support for the Petitions

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) at least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 732(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department shall: (i) poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the industry.

Section 771(4)(A) of the Act defines the “industry” as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support,

⁵ See Memorandum for the Record from Paul Piquado, Assistant Secretary for Enforcement and Compliance, “Deadlines Affected by the Shutdown of the Federal Government” dated October 18, 2013.

the statute directs the Department to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether “the domestic industry” has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product,⁶ they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department’s determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.⁷

Section 771(10) of the Act defines the domestic like product as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.” Thus, the reference point from which the domestic like product analysis begins is “the article subject to an investigation” (*i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the Petitions).

With regard to the domestic like product, Petitioner does not offer a definition of the domestic like product distinct from the scope of the investigations. Based on our analysis of the information submitted on the record, we have determined that NOES constitutes a single

⁶ See section 771(10) of the Act.

⁷ See *USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd. v. United States*, 688 F. Supp. 639, 644 (CIT 1988), *aff’d* 865 F.2d 240 (Fed. Cir. 1989)).

domestic like product and we have analyzed industry support in terms of that domestic like product.⁸

In determining whether Petitioner has standing under section 732(c)(4)(A) of the Act, we considered the industry support data contained in the Petitions with reference to the domestic like product as defined in the “Scope of the Investigations,” in Appendix I of this notice. To establish industry support, Petitioner provided its own production of the domestic like product in 2012.⁹ Petitioner states that it is the only producer of NOES in the United States; therefore, the Petitions are supported by 100 percent of the U.S. industry.¹⁰

On October 28, 2013, we received a submission on behalf of JFE Steel Corporation and Nippon Steel & Sumitomo Metal Corporation, Japanese producers of NOES, questioning Petitioner’s industry support calculation. On October 30, 2013, Petitioner responded to the Japanese producers’ challenge.¹¹

Our review of the data provided in the Petitions, supplemental submissions, and other information readily available to the Department indicates that Petitioner has established industry support.¹² First, the Petitions established support from domestic producers (or workers)

⁸ For a discussion of the domestic like product analysis in this case, *see* Antidumping Duty Investigation Initiation Checklist: Non-Oriented Electrical Steel from the People’s Republic of China (the PRC AD Initiation Checklist), at Attachment II, Analysis of Industry Support for the Petitions Covering Non-Oriented Electrical Steel from the People’s Republic of China, Germany, Japan, the Republic of Korea, Sweden, and Taiwan (Attachment II); Antidumping Duty Investigation Initiation Checklist: Non-Oriented Electrical Steel from Germany (Germany Initiation Checklist), at Attachment II; Antidumping Duty Investigation Initiation Checklist: Non-Oriented Electrical Steel from Japan (Japan Initiation Checklist), at Attachment II; Antidumping Duty Investigation Initiation Checklist: Non-Oriented Electrical Steel from the Republic of Korea (Korea AD Initiation Checklist), at Attachment II; Antidumping Duty Investigation Initiation Checklist: Non-Oriented Electrical Steel from Sweden (Sweden Initiation Checklist), at Attachment II; and Antidumping Duty Investigation Initiation Checklist: Non-Oriented Electrical Steel from Taiwan (Taiwan AD Initiation Checklist), at Attachment II. These checklists are dated concurrently with this notice and on file electronically via IA ACCESS. Access to documents filed via IA ACCESS is also available in the Central Records Unit, Room 7046 of the main Department of Commerce building.

⁹ *See* Volume I of the Petitions, at 2.

¹⁰ *Id.*, at 2 and Exhibit I-1.

¹¹ For further discussion of these submissions, *see* the PRC AD Initiation Checklist, Germany Initiation Checklist, Japan Initiation Checklist, Korea AD Initiation Checklist, Sweden Initiation Checklist, and Taiwan AD Initiation Checklist, at Attachment II.

¹² *Id.*

accounting for more than 50 percent of the total production of the domestic like product and, as such, the Department is not required to take further action in order to evaluate industry support (*e.g.*, polling).¹³ Second, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petitions account for at least 25 percent of the total production of the domestic like product.¹⁴ Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 732(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petitions account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petitions.¹⁵ Accordingly, the Department determines that the Petitions were filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act.

The Department finds that Petitioner filed the Petitions on behalf of the domestic industry because it is an interested party as defined in section 771(9)(C) of the Act and it has demonstrated sufficient industry support with respect to the AD investigations that it is requesting the Department initiate.¹⁶

Allegations and Evidence of Material Injury and Causation

Petitioner alleges that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the imports of the subject

¹³ *Id.*; *see also* section 732(c)(4)(D) of the Act.

¹⁴ *See* the PRC AD Initiation Checklist, Germany Initiation Checklist, Japan Initiation Checklist, Korea AD Initiation Checklist, Sweden Initiation Checklist, and Taiwan AD Initiation Checklist, at Attachment II.

¹⁵ *Id.*

¹⁶ *Id.*

merchandise sold at less than normal value (NV). In addition, Petitioner alleges that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.¹⁷

Petitioner contends that the industry's injured condition is illustrated by reduced market share; underselling and price depression or suppression; lost sales and revenues; and adversely impacted production, capacity utilization, and financial performance.¹⁸ We have assessed the allegations and supporting evidence regarding material injury, threat of material injury, and causation, and we have determined that these allegations are properly supported by adequate evidence and meet the statutory requirements for initiation.¹⁹

Allegations of Sales at Less Than Fair Value

The following is a description of the allegations of sales at less than fair value upon which the Department based its decision to initiate AD investigations of imports of NOES from the PRC, Germany, Japan, Korea, Sweden, and Taiwan. The sources of data for the deductions and adjustments relating to U.S. price and NV are discussed in greater detail in the country-specific initiation checklists.

Export Price

For the PRC, Japan and Korea, Petitioner based U.S. price on price quotes obtained by an independent researcher for subject merchandise produced in the subject country by producer(s) of NOES in that country and sold or offered for export sale to the United States by producer(s) and/or traders of NOES.²⁰

¹⁷ See Volume I of the Petitions, at 11 and Exhibit I-8.

¹⁸ *Id.*, at 9-28 and Exhibits I-6 through I-25.

¹⁹ See the PRC AD Initiation Checklist, Germany Initiation Checklist, Japan Initiation Checklist, Korea AD Initiation Checklist, Sweden Initiation Checklist, and Taiwan AD Initiation Checklist, at Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation for the Petitions Covering Non-Oriented Electrical Steel from the People's Republic of China, Germany, Japan, the Republic of Korea, Sweden, and Taiwan.

²⁰ See the PRC AD Initiation Checklist, Japan Initiation Checklist, and Korea AD Initiation Checklist.

For Germany, Taiwan, and Sweden, and as additional indicators of export prices for Japan, Petitioner based U.S. prices on the free-on-board (FOB) foreign port prices of entries of merchandise under consideration obtained from U.S. Customs and Border Protection's (CBP) Automated Manifest System, which Petitioner then linked to publicly available data maintained by the U.S. Census Bureau *via* the ITC's Dataweb.²¹

In addition, for Japan, Korea, Germany, Taiwan, and Sweden, Petitioner also based U.S. prices on FOB foreign port average unit value data for products classified under the appropriate Harmonized Tariff Schedule of the United States (HTSUS) numbers for the merchandise under consideration imported from these respective countries into the United States during the POI, derived from official U.S. import statistics, also obtained *via* Dataweb.²²

For the PRC, Germany, Japan, Korea, Sweden, and Taiwan, Petitioner made deductions for movement and other expenses consistent with the sales and delivery terms.²³ For the PRC, Petitioner additionally adjusted the quoted U.S. prices for a portion of value-added tax that was not refunded/rebated.²⁴ For Japan, Petitioner additionally adjusted the quoted U.S. prices for mark-ups from trading companies.²⁵ Petitioner made no other adjustments to U.S. price.

Normal Value

For Japan, Korea, Taiwan, and Sweden, Petitioner based NV on price quotes provided by an independent researcher for the foreign like product produced in the subject country by

²¹ See Germany Initiation Checklist, Japan Initiation Checklist, Sweden Initiation Checklist, and Taiwan AD Initiation Checklist.

²² See Germany Initiation Checklist, Japan Initiation Checklist, Korea AD Initiation Checklist, Sweden Initiation Checklist, and Taiwan AD Initiation Checklist.

²³ See the PRC AD Initiation Checklist, Germany Initiation Checklist, Japan Initiation Checklist, Korea AD Initiation Checklist, Sweden Initiation Checklist, and Taiwan AD Initiation Checklist.

²⁴ See the PRC AD Initiation Checklist.

²⁵ See Japan Initiation Checklist.

producer(s) of NOES in that country and sold or offered for sale in the subject country by producer(s) and/or traders of NOES.²⁶

For Germany, Petitioner was unable to obtain home-market or third-country prices; accordingly, Petitioner based NV on constructed value (CV).²⁷

For Sweden, Petitioner made deductions for movement expenses consistent with the terms of delivery.²⁸ For Japan, Petitioner adjusted the quoted prices for taxes and mark-ups from trading companies.²⁹ For Korea and Taiwan, Petitioner treated quoted prices as the ex-factory prices.³⁰

With respect to the PRC, Petitioner states that the Department has long treated the PRC as a non-market economy (NME) country.³¹ In accordance with section 771(18)(C)(i) of the Act, the presumption of NME status remains in effect until revoked by the Department. The presumption of NME status for the PRC has not been revoked by the Department and, therefore, remains in effect for purposes of the initiation of this investigation. Accordingly, the NV of the product is appropriately based on factors of production (FOPs) valued in a surrogate market economy country in accordance with section 773(c) of the Act. In the course of this investigation, all parties, including the public, will have the opportunity to provide relevant information related to the issues of the PRC's NME status and the granting of separate rates to individual exporters.

Petitioner claims that Thailand is an appropriate surrogate country because it is a market economy country that is at a level of economic development comparable to that of the PRC, it is

²⁶ See Japan Initiation Checklist, Korea AD Initiation Checklist, Sweden Initiation Checklist, and Taiwan AD Initiation Checklist.

²⁷ See Germany Initiation Checklist.

²⁸ See Japan Initiation Checklist and Sweden Initiation Checklist.

²⁹ See Japan Initiation Checklist.

³⁰ See Korea AD Initiation Checklist and Taiwan AD Initiation Checklist.

³¹ See Volume II of the Petition at 1.

a significant producer of the merchandise under consideration, and the data for valuing FOPs are both available and reliable.³² Petitioner used the 2012-2013 financial statements of an Indian vertically integrated steel producer Tata Steel Limited (Tata) to calculate surrogate financial ratios. Petitioner justified its selection of the Tata financial statements as follows:³³ 1) Petitioner has been unable to locate any publicly available financial statements for a vertically integrated steel producer in Thailand with operations comparable to the PRC producer. Like the PRC producer, Tata is a vertically integrated steel producer and, thus, its operations and experiences are an appropriate surrogate; 2) Tata's operations earned a profit in 2012-2013. The Thai steel companies that Petitioner identified were not profitable; 3) Petitioner has been unable to locate publicly available, contemporaneous financial statements for any company in other potential surrogate countries that is a vertically-integrated producer of comparable merchandise and that shows a profit;³⁴ 4) Tata has issued unconsolidated financial statements that reflect almost exclusively its returns on steel manufacturing operations; and 5) Tata's unconsolidated financial statements are prepared at a level of detail that permit recognition of energy costs to prevent double counting with other factors.

Petitioner also explained that, in *Grain-Oriented Electrical Steel from the People's Republic of China, the Czech Republic, Germany, Japan, the Republic of Korea, Poland, and the Russian Federation: Initiation of Antidumping Duty Investigations* 78 FR 65283 (October 31, 2013), the Department initiated a less-than-fair-value investigation of grain-oriented electrical steel from the PRC based on the use of Indian financial statements. Based on information provided by Petitioner, we believe it is appropriate to use Thailand as a surrogate country for initiation purposes. We also believe that, for initiation purposes, it is appropriate to use the

³² *Id.*, at 2.

³³ *Id.*, at 6.

³⁴ See Supplement to the China Petition, dated October 28, 2013 (China Supplement), at 3.

Indian financial statements as the surrogate source for financial ratios. Interested parties will have the opportunity to submit comments regarding surrogate country selection and will be provided an opportunity to submit publicly available information to value FOPs within 40 days before the scheduled date of the preliminary determination.³⁵

Factors of Production

Petitioner based the FOPs usage for materials, labor and energy on the consumption rates of its own production of NOES in the United States.

Valuation of Raw Materials

Petitioner valued the FOPs for various raw material inputs used to produce subject merchandise based on Thai data from the Global Trade Atlas (GTA) statistics for the POI for the PRC under applicable HTSUS codes.³⁶ Petitioner added to this value the average Thai brokerage and inland freight charges reported for importing goods into Thailand, as published by the World Bank in *Doing Business 2013: Thailand*.³⁷

Petitioner made a deduction for the value of scrap recovered during the production process based on the average import value of other ferrous waste and scrap using HTSUS subheading 7204.49 as published by GTA for the period from January 2013 through June 2013.³⁸

Petitioner excluded all import values from countries previously determined by the Department to maintain broadly available, non-industry-specific export subsidies and from countries previously determined by the Department to be NME countries. In addition, in accordance with the Department's practice, the average import value excludes imports that were labeled as originating from an unidentified country.

³⁵ See 19 CFR 351.301(c)(3)(i) (2013).

³⁶ See Volume II of the Petition, at 4 and Exhibits II-8, II-9, and II-13.

³⁷ *Id.*, at 5 and Exhibits II-7 and II-9.

³⁸ *Id.*, at 4-5 and Exhibit II-9.

Valuation of Labor

Petitioner calculated labor using a 2006 industry-specific wage rate for Thailand, which was published in 2007 by the Thailand National Statistics Office. Petitioner adjusted this wage rate for inflation using the Thai Consumer Price Index as published by the International Monetary Fund.³⁹

Valuation of Energy

Petitioner valued electricity based on the data from the Metropolitan Electricity Authority.⁴⁰ Petitioner used the GTA statistics for Thai imports of natural gas and universal conversion factors to calculate the volume-based surrogate value for natural gas.⁴¹

Valuation of Factory Overhead, Selling, General and Administrative Expenses, and Profit

Petitioner calculated surrogate financial ratios (*i.e.*, factory overhead, selling, general and administrative (SG&A) expenses, and profit) using the audited financial statements of Tata Steel Limited, an Indian producer of comparable merchandise, for the fiscal year ending March 31, 2013.⁴² According to Petitioner, Tata Steel Limited is a vertically-integrated Indian producer of a wide variety of steel products. Petitioner asserts that the use of these financial statements is appropriate because there was limited access to other publicly-available financial statements of a vertically-integrated steel company which manufactured comparable merchandise and which was also profitable.⁴³

³⁹ *Id.* at 5 and Exhibit II-10.

⁴⁰ See “Non-Oriented Electrical Steel From The People’s Republic of China: Petitioner’s Response To The Department’s Questions Regarding The Petition,” dated October 28, 2013, at 4 and Exhibits S-2 and S-5.

⁴¹ *Id.*

⁴² See Volume II of the Petition, at 6 and Exhibit II-12.

⁴³ *Id.*

Sales Below Cost Allegations

For Japan, Korea, Sweden, and Taiwan, Petitioner provided information demonstrating reasonable grounds to believe or suspect that sales of NOES in the respective home markets were made at prices below the fully-absorbed COP, within the meaning of section 773(b) of the Act, and requested that the Department conduct country-wide sales-below-cost investigations. The Statement of Administrative Action (SAA), submitted to the Congress in connection with the interpretation and application of the Uruguay Round Agreements Act, states that an allegation of sales below COP need not be specific to individual exporters or producers.⁴⁴ The SAA states that “Commerce will consider allegations of below-cost sales in the aggregate for a foreign country, just as Commerce currently considers allegations of sales at less than fair value on a country-wide basis for purposes of initiating an antidumping investigation.”⁴⁵

Further, the SAA provides that section 773(b)(2)(A) of the Act retains the requirement that the Department have “reasonable grounds to believe or suspect” that below-cost sales have occurred before initiating such an investigation. Reasonable grounds exist when an interested party provides specific factual information on costs and prices, observed or constructed, indicating that sales in the foreign market in question are at below-cost prices.⁴⁶

Cost of Production

Pursuant to section 773(b)(3) of the Act, COP consists of the cost of manufacturing (COM); SG&A expenses; financial expenses; and packing expenses. Petitioner calculated COM (except for depreciation) based on Petitioner’s experience adjusted for known differences between the industry in the United States and the industries of the respective country (*i.e.*, Japan,

⁴⁴ See SAA, H.R. Doc. No. 103-316, Vol. 1 (1994), at 833, reprinted in 1994 U.S.C.C.A.N. 3773.

⁴⁵ *Id.*

⁴⁶ *Id.*

Korea, Sweden, and Taiwan), during the proposed POI.⁴⁷ Using publicly-available data to account for price differences, Petitioner multiplied their usage quantities by the submitted value of the inputs used to manufacture NOES in each country.

To determine depreciation, SG&A, and financial expense rates, Petitioner relied on financial statements of producers of comparable merchandise operating in the respective foreign country.⁴⁸

Based upon a comparison of the prices of the foreign like product in the home market to the calculated COP of the most comparable product, we find reasonable grounds to believe or suspect that sales of the foreign like products were made at prices that are below the COP, within the meaning of section 773(b)(2)(A)(i) of the Act. Accordingly, the Department is initiating country-wide cost investigations on sales of NOES from Japan, Korea, Sweden, and Taiwan.

Normal Value Based on Constructed Value

For Japan, Korea, Sweden, and Taiwan, because they alleged sales below cost, pursuant to sections 773(a)(4), 773(b), and 773(e) of the Act, Petitioner additionally calculated NV based on constructed value (CV). Petitioner calculated CV using the same average COM, SG&A, financial expense, and packing figures used to compute the COPs. Petitioner relied on the same financial statements used as the basis for the depreciation and SG&A expense rates to calculate the profit rates.⁴⁹

For Germany, Petitioner based NV on CV, as neither a home market nor a third country price was reasonably available. Pursuant to section 773(e) of the Act, CV consists of the COM; SG&A expenses; financial expenses; packing expenses; and profit. Petitioner calculated COM

⁴⁷ See Japan Initiation Checklist; Korea AD Initiation Checklist; Sweden Initiation Checklist; and Taiwan AD Initiation Checklist.

⁴⁸ *Id.*

⁴⁹ *Id.*

(except for depreciation) based on Petitioner's experience adjusted for known differences between the German and U.S. industries during the proposed POI, multiplied by the value of the inputs used to manufacture NOES in Germany using publicly available data.⁵⁰

To determine depreciation, SG&A, and financial expense rates, Petitioner relied on the financial statements of a German producer of comparable merchandise.⁵¹ Petitioner relied on the same financial statements used as the basis for the depreciation and SG&A expense rates to calculate the profit rate.⁵²

Fair Value Comparisons

Based on the data provided by Petitioner, there is reason to believe that imports of NOES from the PRC, Germany, Japan, Korea, Sweden, and Taiwan are being, or are likely to be, sold in the United States at less than fair value. Based on comparisons of export price (EP) to NV in accordance with section 773(a) of the Act, the estimated dumping margins for NOES from:

1) Germany range from 73.74percent to 98.84 percent;⁵³ 2) Japan range from 88.63 percent to 204.79 percent;⁵⁴ 3) Korea range from 16.00 percent to 68.82 percent;⁵⁵ 4) Sweden range from 62.17 percent to 126.72percent;⁵⁶ and 5) Taiwan range from 52.23 percent to 101.51 percent.⁵⁷

Based on comparisons of EP to NV in accordance with section 773(c) of the Act, the estimated dumping margins for NOES from the PRC range from 244.54 percent to 407.52 percent.⁵⁸

⁵⁰ See Germany Initiation Checklist

⁵¹ *Id.*

⁵² *Id.*

⁵³ *Id.*

⁵⁴ See Japan Initiation Checklist.

⁵⁵ See Korea AD Initiation Checklist.

⁵⁶ See Sweden Initiation Checklist.

⁵⁷ See Taiwan AD Initiation Checklist.

⁵⁸ See the PRC AD Initiation Checklist.

Initiation of Antidumping Duty Investigations

Based upon the examination of the AD Petitions on NOES from the PRC, Germany, Japan, Korea, Sweden, and Taiwan, we find that the Petitions meet the requirements of section 732 of the Act. Therefore, we are initiating AD investigations to determine whether imports of NOES from the PRC, Germany, Japan, Korea, Sweden, and Taiwan are being, or are likely to be, sold in the United States at less than fair value. In accordance with section 733(b)(1)(A) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determinations no later than 140 days after the date of this initiation.

Respondent Selection

Petitioner named three companies as producers/exporters of NOES from Germany, five from Japan, three from Korea, one from Sweden, and two from Taiwan.⁵⁹ Following standard practice in AD investigations involving market-economy countries, the Department will, where appropriate, select respondents based on CBP data for U.S. imports of NOES. For Germany, Korea and Japan, we intend to release CBP data under Administrative Protective Order (APO) to all parties with access to information protected by APO within five-business days of publication of this *Federal Register*. For Sweden and Taiwan, the Department intends to examine all known producers/exporters identified in the Petitions in these investigations.⁶⁰ The Department invites comments regarding respondent selection within seven days of publication of this *Federal Register* notice.

With respect to the PRC, Petitioner has identified 25 potential respondents. In accordance with our standard practice for respondent selection in cases involving NME countries, we intend to issue quantity and value questionnaires to each potential respondent and

⁵⁹ See the Petitions at Volume I, Exhibit I-4.

⁶⁰ The Petitions name Surahammars Bruks AB as a producer/exporter of NOES in Sweden, and China Steel Corporation and Leicong Industrial Company, Ltd., as producers/exporters of NOES in Taiwan. See *id.*

base respondent selection on the responses received. In addition, the Department will post the quantity and value questionnaire along with the filing instructions on the Enforcement and Compliance website at <http://www.trade.gov/enforcement/news.asp>. Exporters and producers of NOES from the PRC that do not receive quantity and value questionnaires *via* mail may still submit a quantity and value response and can obtain a copy from the Enforcement and Compliance website. The quantity and value questionnaire must be submitted by all PRC exporters/producers no later than November 26, 2013. All quantity and value questionnaires must be filed electronically using IA ACCESS.

Separate Rates

In order to obtain separate rate status in an NME investigation, exporters and producers must submit a separate rate application.⁶¹ The specific requirements for submitting the separate rate application in the PRC investigation are outlined in detail in the application itself, which will be available on the Department's website at <http://www.trade.gov/enforcement/news.asp> on the date of publication of this initiation notice in the *Federal Register*. The separate rate application will be due 60 days after publication of this initiation notice. For exporters and producers who submit a separate rate application and have been selected as mandatory respondents, these exporters and producers will no longer be eligible for consideration for separate rate status unless they respond to all parts of the questionnaire as mandatory respondents. The Department requires that the PRC respondents submit a response to both the quantity and value questionnaire and the separate rate application by their respective deadlines in order to receive consideration for separate rate status.

⁶¹ See Policy Bulletin 05.1: Separate-Rates Practice and Application of Combination Rates in Antidumping Investigation involving Non-Market Economy Countries (April 5, 2005), available at <http://enforcement.trade.gov/policy/bull05-1.pdf> (Policy Bulletin 05.1).

Use of Combination Rates

The Department will calculate combination rates for certain respondents that are eligible for a separate rate in an NME investigation. The Separate Rates and Combination Rates Bulletin states:

{w}hile continuing the practice of assigning separate rates only to exporters, all separate rates that the Department will now assign in its NME Investigation will be specific to those producers that supplied the exporter during the period of investigation. Note, however, that one rate is calculated for the exporter and all of the producers which supplied subject merchandise to it during the period of investigation. This practice applies both to mandatory respondents receiving an individually calculated separate rate as well as the pool of non-investigated firms receiving the weighted-average of the individually calculated rates. This practice is referred to as the application of “combination rates” because such rates apply to specific combinations of exporters and one or more producers. The cash-deposit rate assigned to an exporter will apply only to merchandise both exported by the firm in question and produced by a firm that supplied the exporter during the period of investigation.⁶²

Distribution of Copies of the Petitions

In accordance with section 732(b)(3)(A) of the Act and 19 CFR 351.202(f), copies of the public version of the Petitions have been provided to the governments of the PRC, Germany, Japan, Korea, Sweden, and Taiwan *via* IA ACCESS. To the extent practicable, we will attempt to provide a copy of the public version of the Petitions to each exporter named in the Petitions, as provided under 19 CFR 351.203(c)(2).

Meeting with the Government of Korea

Pursuant to a request by the Government of Korea, on November 5, 2013, Department officials met with Korean Government officials to discuss that government’s inquiry regarding the status of the Department’s consideration of the Petition and industry support, as provided under section 732(b)(3)(B) of the Act.

⁶² See Policy Bulletin 05.1 at 6 (emphasis added).

ITC Notification

We have notified the ITC of our initiation, as required by section 732(d) of the Act.

Preliminary Determinations by the ITC

The ITC will preliminarily determine no later than December 2, 2013, whether there is a reasonable indication that imports of NOES from the PRC, Germany, Japan, Korea, Sweden, and Taiwan are materially injuring or threatening material injury to a U.S. industry. A negative ITC determination for any country will result in the investigation being terminated with respect to that country; otherwise, these investigations will proceed according to statutory and regulatory time limits.

Submission of Factual Information

On April 10, 2013, the Department published *Definition of Factual Information and Time Limits for Submission of Factual Information: Final Rule*, 78 FR 21246 (April 10, 2013), which modified two regulations related to AD and CVD proceedings: the definition of factual information (19 CFR 351.102(b)(21)), and the time limits for the submission of factual information (19 CFR 351.301). The final rule identifies five categories of factual information in 19 CFR 351.102(b)(21), which are summarized as follows: (i) evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by the Department; and (v) evidence other than factual information described in (i)–(iv). The final rule requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation

identifying the information already on the record that the factual information seeks to rebut, clarify, or correct. The final rule also modified 19 CFR 351.301 so that, rather than providing general time limits, there are specific time limits based on the type of factual information being submitted. These modifications are effective for all proceeding segments initiated on or after May 10, 2013, and thus are applicable to these investigations. Review the final rule, available at <http://enforcement.trade.gov/frn/2013/1304frn/2013-08227.txt> prior to submitting factual information in these investigations.

Revised Extension of Time Limits Regulation

On September 20, 2013, the Department modified its regulation concerning the extension of time limits for submissions in AD and CVD proceedings.⁶³ The modification clarifies that parties may request an extension of time limits before a time limit established under Part 351 expires, or as otherwise specified by the Secretary. In general, an extension request will be considered untimely if it is filed after the time limit established under Part 351 expires. For submissions which are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. on the due date. Examples include, but are not limited to: (1) Case and rebuttal briefs, filed pursuant to 19 CFR 351.309; (2) factual information to value factors under section 19 CFR 351.408(c), or to measure the adequacy of remuneration under section 19 CFR 351.511(a)(2), filed pursuant to 19 CFR 351.301(c)(3) and rebuttal, clarification and correction filed pursuant to 19 CFR 351.301(c)(3)(iv); (3) comments concerning the selection of a surrogate country and surrogate values and rebuttal; (4) comments concerning CBP data; and (5) quantity and value questionnaires. Under certain circumstances, the Department may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In

⁶³ See *Extension of Time Limits; Final Rule*, 78 FR 57790 (September 20, 2013).

such a case, the Department will inform parties in the letter or memorandum setting forth the deadline (including a specified time) by which extension requests must be filed to be considered timely. This modification also requires that an extension request must be made in a separate, stand-alone submission, and clarifies the circumstances under which the Department will grant untimely-filed requests for the extension of time limits. These modifications are effective for all segments initiated on or after October 21, 2013. Review *Extension of Time Limits; Final Rule*, available at <http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm>, prior to submitting factual information in this segment.

Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.⁶⁴ Parties are hereby reminded that revised certification requirements are in effect for company/government officials, as well as their representatives. Investigations initiated on the basis of petitions filed on or after August 16, 2013, and other segments of any AD or CVD proceedings initiated on or after August 16, 2013, should use the formats for the revised certifications provided at the end of the *Final Rule*.⁶⁵ The Department intends to reject factual submissions if the submitting party does not comply with applicable revised certification requirements.

Notification to Interested Parties

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. On January 22, 2008, the Department published *Antidumping and Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures*, 73 FR

⁶⁴ See section 782(b) of the Act.

⁶⁵ See *Certification of Factual Information To Import Administration During Antidumping and Countervailing Duty Proceedings*, 78 FR 42678 (July 17, 2013) (*Final Rule*); see also frequently asked questions regarding the *Final Rule*, available at http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.

3634 (January 22, 2008). Parties wishing to participate in these investigations should ensure that they meet the requirements of these procedures (*e.g.*, the filing of letters of appearance as discussed at 19 CFR 351.103(d)).

This notice is issued and published pursuant to section 777(i) of the Act.

Paul Piquado
Assistant Secretary
for Enforcement and Compliance

_November 6, 2013_____

Date

Appendix I

Scope of the Investigations

The merchandise subject to these investigations consists of non-oriented electrical steel (NOES), which includes cold-rolled, flat-rolled, alloy steel products, whether or not in coils, regardless of width, having an actual thickness of 0.20 mm or more, in which the core loss is substantially equal in any direction of magnetization in the plane of the material. The term “substantially equal” in the prior sentence means that the cross grain direction of core loss is no more than 1.5 times the straight grain direction (*i.e.*, the rolling direction) of core loss. NOES has a magnetic permeability that does not exceed 1.65 Tesla when tested at a field of 800 A/m (equivalent to 10 Oersteds) along (*i.e.*, parallel to) the rolling direction of the sheet (*i.e.*, B_{800} value). NOES contains by weight at least 1.25 percent of silicon but less than 3.5 percent of silicon, not more than 0.08 percent of carbon, and not more than 1.5 percent of aluminum.

NOES is subject to these investigations whether it is fully processed (fully annealed to develop final magnetic properties) or semi-processed (finished to final thickness and physical form but not fully annealed to develop final magnetic properties); whether or not it is coated (*e.g.*, with enamel, varnish, natural oxide surface, chemically treated or phosphate surface, or other non-metallic materials). Fully processed NOES is typically made to the requirements of ASTM specification A 677, Japanese Industrial Standards (JIS) specification C 2552, and/or International Electrotechnical Commission (IEC) specification 60404-8-4. Semi-processed NOES is typically made to the requirements of ASTM specification A 683. However, the scope of these investigations is not limited to merchandise meeting the specifications noted above.

NOES is sometimes referred to as cold-rolled non-oriented electrical steel (CRNO), non-grain oriented (NGO), non-oriented (NO), or cold-rolled non-grain oriented (CRNGO). These terms are interchangeable.

The subject merchandise is provided for in subheadings 7225.19.0000, 7226.19.1000, and 7226.19.9000 of the Harmonized Tariff Schedule of the United States (HTSUS). Subject merchandise may also be entered under subheadings 7225.50.8085, 7225.99.0090, 7226.92.5000, 7226.92.7050, 7226.92.8050, 7226.99.0180 of the HTSUS. Although HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope is dispositive.